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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,569	07/03/2003	Paul Chen	13843 B	5475

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EXAMINER

MATHEW, FENN C

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 08/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/613,569

Applicant(s)

CHEN, PAUL

Examiner

Fenn C. Mathew

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,6-9 and 11-14 is/are rejected.
- 7) ☒ Claim(s) 4,5,10 and 15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>07/03/03</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election of species I in the reply filed on 05/18/2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Claims 1-15 are pending.

Claim Objections

2. Claim 5 is objected to because of the following informalities: The phrase 'plate attached to bottom' should presumably read –plate attached to a bottom surface of said shelf-- . Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, 6-9, and 11 are are rejected under 35 U.S.C. 102(b) as being anticipated by Ammoscato et al. (U.S. 5,472,397). Referring to claim 1, Ammoscato discloses an exercise bench and dumbbell combination (10) comprising a base (12) including a bench member supported thereon for supporting users thereon, a shelf (38) supported on the base (indirectly), and a dumbbell device (40) supported on the shelf

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and arranged to be fetched by the users. Referring to claim 2, Ammoscato discloses in the abstract that the shelf is rotatably secured on the base with a pivot rod to allow the shelf and the dumbbell device to be rotated relative to the base to suitable positions.

Referring to claim 3, as broadly claimed, Ammoscato teaches the shelf including a recess formed therein to support the dumbbell device. Referring to claim 6, as broadly claimed, Ammoscato discloses a cushion (24) selectively attached to the base.

Referring to claim 7, Ammoscato discloses an arm (30) attached to the base to support the cushion. Referring to claim 8, Ammoscato discloses the arm including a first end attached to the base, and a second end attached to the cushion. Referring to claim 9, Ammoscato teaches the device further comprising means for adjustably securing the first end of the arm to the base. Referring to claim 11, as broadly claimed, Ammoscato discloses means for adjustably securing the second end of the arm to the cushion (note that pivot is secured to back of the cushion, and that the second end of the arm is attached to the pivot).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ammoscato (U.S. 5,472,397) in view of Fomichenko (S.U. 1,618,430). Referring to

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claim 13, Ammoscato teaches the claimed invention including the dumbbell device.

Ammoscato is silent with regards to the particulars of the dumbbells. Fomichenko teaches a desirable dumbbell to be used for exercise including a plurality of weight members (18) each having a channel formed therein as seen in figure 2, a handgrip (1) having at least one end engaged through the channel of the weight (via latch (1)), and means for selectively securing the weight members (2) to the one end of the handgrip. It would have been obvious to one of ordinary skill in the art at the time of invention to provide Ammoscato with the dumbbell as taught by Fomichenko in order to provide a dumbbell that can be easily adjusted thereby reducing the need for multiple dumbbells. With respect to claim 14, note that the dumbbell of Fomichenko further includes a slot formed in the end of the handgrip, with the selectively securing means including a latch member (2) slidably engaged through the slot of the handgrip and engageable with a selected number of weights.

7. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ammoscato in view of Grider (U.S. 5,603,682). Ammoscato teaches the claimed invention including a flap (as seen in figure 5) connecting the second end of the arm and the cushion. Ammoscato fails to teach the flap having a plurality of apertures and a latch pin engageable therein. Grider teaches in col. 5, lines 5-45, the desirability of providing a flap with apertures and a latch pin in order to allow the seat to further be adjusted angularly and to lock the cushion in the angular position. Therefore in view of the teachings of Grider, it would have been obvious to one of ordinary skill in the art at the time of invention to provide Ammoscato with a flap as taught by Grider including

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apertures and a locking latch pin in order to allow the cushion of Ammoscato to be further angularly adjusted according to user preference and/or starting exercise position.

Allowable Subject Matter

8. Claims 4-5, 10, and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art of record fails to teach the invention as substantially claimed further including a shelf with a pair of bulges and plurality of depressions to receive the weights of a dumbbell, the adjustably securing means as substantially claimed, and the particulars of the dumbbell including the fastener with slidable catch.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Reyes (U.S. 6,447,433) teaches a weight bar support structure with pivotable 'shelves'. Isom et al. (6,287,243) teaches a bench that is adjustable.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fenn C. Mathew whose telephone number is (571) 272-4978. The examiner can normally be reached on Monday - Friday 9:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'Fenn C. Mathew', is positioned above the printed name.

Fenn C. Mathew
August 2, 2006